

1 transaction is reasonable and fair as between the corpora-  
2 tions. I also gave consideration to the fact that the very --  
3 the, the terms that this is just a, a note in which the, the  
4 terms would have to be negotiated between the principals of  
5 the two corporations, it was basically a form that Jane could  
6 use and change as she liked. I also gave consideration to the  
7 fact that Jane was a mature lady that had worked with notes,  
8 was very familiar with promissory notes, and that she was in  
9 regular contact with Colby May, and that Colby May would have  
10 advised her as to what would have been fair as far as the  
11 insertions in the note or any terms as far as, as National  
12 Minority was concerned.

13 Q And you thought that she'd probably Colby May if she  
14 had any questions about the note, is that correct?

15 A Colby May or another attorney of her choice.

16 Q To your knowledge, had she ever contacted another  
17 attorney of her choice?

18 A I have no --

19 Q Concerning, concerning any, any documents relating  
20 to NMTV?

21 A I have no knowledge one way or the other.

22 Q Now, did you discuss with Jane Duff the matter of  
23 your potential conflict of interest?

24 A No.

25 Q It never occurred to you to do that, did it?

1 A No, it didn't.

2 Q And you didn't think you had a responsibility to  
3 discuss your potential with her, am I correct?

4 A I didn't think, I didn't think there was a conflict.

5 Q And I take it you didn't, you didn't discuss with  
6 her whether or not there was a conflict.

7 A No.

8 Q You didn't discuss with her your belief that there  
9 was not a conflict.

10 A No.

11 Q And you didn't share your thoughts with any other  
12 NMTV board member, did you?

13 A No.

14 Q And you were aware at the time that Colby May also  
15 represents both NMTV and Trinity, were you not?

16 A Yes.

17 Q And did you think Mr. May was the right person to be  
18 looking after NMTV's interests since he had the same potential  
19 conflict that you did?

20 A I knew that Colby May was fair, and that Colby May  
21 would, would be very assertive if he thought that the transac-  
22 tion was unfair to NMTV.

23 Q But you were aware at the time that Colby May was  
24 Trinity's FCC counsel.

25 A Yes.

1 Q Had you ever discussed your potential conflict with  
2 Paul Crouch?

3 A No.

4 Q Had you ever discussed with Colby May whether you or  
5 he had a potential conflict of interest?

6 A In any matter whatsoever?

7 Q Concerning NMTV and Trinity.

8 A No.

9 Q You said "no."

10 A No.

11 Q So I'm correct, then, that you have never discussed  
12 with any officer or employee of, of TBN your potential con-  
13 flict.

14 A I have not.

15 Q And you haven't discussed your potential conflict  
16 with any NMTV board member or officer.

17 A No.

18 Q I want to show you another document, which is Mass  
19 Media Bureau Exhibit -- I think it's 383.

20 A Is that in book seven?

21 Q I think it's in book six, Mr. Juggert.

22 MR. TOPEL: Book, book six.

23 MR. COHEN: I think so.

24 MR. TOPEL: It's my job to shout out the volume.

25 MR. COHEN: I'll defer to you.

1 MR. JUGGERT: I don't want to pick out a --

2 JUDGE CHACHKIN: Would you shout out the number  
3 again, Mr. Topel?

4 MR. TOPEL: Yes, Your Honor --

5 JUDGE CHACHKIN: The others I'm not citing you on.

6 MR. TOPEL: Volume 6.

7 JUDGE CHACHKIN: What is the exhibit number?

8 MR. TOPEL: That's Mr. Cohen's.

9 MR. COHEN: Oh, that's my job. Really a division of  
10 labor, Your Honor. I'm the secondary shouter; Howard's the  
11 principal one. 383.

12 JUDGE CHACHKIN: All right.

13 BY MR. COHEN:

14 Q Again, I'm not going to be asking you any questions  
15 about the substance of the document, but I'd like you to spend  
16 a few minutes to review it. Have you found it?

17 A Yes.

18 (Pause.)

19 MR. JUGGERT: Okay.

20 BY MR. COHEN:

21 Q Now, how did it come -- strike that. You prepared  
22 that agreement, didn't you, the television agreement and  
23 production agreement?

24 A Yes, I did.

25 Q And, and tell me how it came about that you prepared

1 that.

2       A     Jane and I had talked about the fact that  
3 Mr. McClellan, who had performed -- who, who had produced and  
4 who was a central figure at a program called "Joy in the  
5 Morning," had left Southern California and had moved to  
6 Portland, Oregon, to take over an NMTV station up there. Jane  
7 contacted me and said, "There needs to be an agreement that  
8 will cover Jim McClellan's operations up in Portland with  
9 respect to 'Joy in the Morning,'" and she provided me the  
10 basic format of another agreement, and said, "Why don't you  
11 just adopt this?" and she told me what terms would be in it  
12 and terms of, of what Mr. McClellan would be -- what compensa-  
13 tion would go to National Minority and gave me the basic form,  
14 and I prepared the agreement from what she had dictated.

15       Q     Now, did you believe the interests of Trinity and  
16 NMTV were identical so far as -- insofar as this document was  
17 concerned?

18       A     Yes, I did.

19       Q     I'd like to refer you to your deposition on  
20 Thursday, September 23, 1993, page 51, line 15, and I asked  
21 you, with reference to this document, "And did you believe  
22 that the interests of Trinity and NMTV were identical in the  
23 preparation of this document?" and your answer was, "No, I  
24 prepared that on behalf of Trinity Christian Center."

25       A     Is there a question?

1 Q No. When you prepared --  
2 A I'm sorry.  
3 Q Sure.  
4 A I'm just trying to review it again.  
5 Q Yeah, 51.  
6 A Page 51.  
7 Q Line 15. When you prepared the television agreement  
8 and the production agreement, did you give consideration as to  
9 whether you had a, whether you had a conflict of interest in  
10 preparing that document?  
11 A Yes, it would have gone through my mind.  
12 Q But you didn't share what went through your mind  
13 with Jane Duff.  
14 A No.  
15 Q And isn't it true you thought that if Jane Duff had  
16 any questions concerning your conflict that she would consult  
17 with Mr. May?  
18 A I thought that if she had any questions regarding  
19 the document, she would consult with Mr. May.  
20 Q What about concerning a -- the -- any potential  
21 conflict?  
22 A Yes, I thought that, too.  
23 Q Now I want to show you a document which has been  
24 admitted into evidence as Mass, Mass Media Bureau Exhibit 337,  
25 and that should be in the same -- well, that's Mr. Topel's

1 job. Maybe he'll let me say it.

2 MR. TOPEL: The same volume.

3 BY MR. COHEN:

4 Q The same volume. That's an agreement to provide  
5 business services?

6 A Yes.

7 Q Okay, would -- again, I'm not going to be asking you  
8 about the substance of the document, but would you spend a  
9 minute or two to review it so you're familiar with it?

10 A Yes, I'm familiar with it.

11 Q Now, you prepared that document, am I correct?

12 A Yes.

13 Q And at whose request did you prepare it?

14 A Jane Duff.

15 Q And what instructions did she give you when you  
16 prepared it?

17 A I was to prepare a document for business services  
18 that would be a generic document that would be used for dif-  
19 ferent corporations that Trinity Broadcasting was providing  
20 business services for, that the essential terms of it were to  
21 be left blank; that is, the length of it and the amount of  
22 compensation.

23 Q And this document that we have before us here was  
24 entered into on the second day of January of 1991. Do you  
25 have a recollection of when you had the conversation with

1 Mrs. Duff that you just --

2 A As I --

3 Q -- testified to?

4 A As I sit here, I can't recall.

5 Q Was it, was it, was it fairly contemporaneous with  
6 January 2nd, 1991?

7 A I believe it was.

8 Q Did she tell you what companies Trinity would be  
9 offering this document to, the generic document to?

10 A I believe it was Community Educational Broadcasting,  
11 Jacksonville Educators Broadcasting, and National Minority.

12 Q Now, when you prepared that -- this document, this  
13 agreement to provide business services, did you believe that  
14 the interests of NMTV and Trinity were identical?

15 A Inasfar as this document was, was concerned, when it  
16 got down to the terms there might be a difference in terms of  
17 negotiating the price and, and the length.

18 Q And when you prepared this document, for whom were  
19 you working?

20 A Trinity.

21 Q You knew that the document was going to be used as  
22 an instrument and NMTV, didn't you?

23 A I knew it would be considered by NMTV as well as  
24 other corporations.

25 Q And you knew that -- you certainly learned, didn't



1 | you, that NMTV entered into this document with Trinity?

2 |       A     After the fact.

3 |       Q     And when you were talking with Mrs. Duff about this  
4 | document, the preparation of this document, you didn't discuss  
5 | with her whether you had any possible conflict of interest, am  
6 | I correct?

7 |       A     No, I didn't.

8 |       Q     Under California law -- that's all I have for that  
9 | document, sir. Under California law, is a director of a  
10 | nonprofit religious corporation liable for any debts?

11 |       A     If he is, if he is -- if he engages in fraud or  
12 | other egregious conduct -- conduct personally, generally he's  
13 | not. I know of no instance, and I, and I have been involved  
14 | in this, in this area of law for a little over 20 years, of a  
15 | director being held liable for decisions he'd make as a board  
16 | member.

17 |       Q     Under California law, is the director of a religious  
18 | corporation liable for any torts the corporation might perpe-  
19 | trate?

20 |       A     Generally not, fraud is an exception. If he is  
21 | involved in it or if he countenances fraud subsequently.

22 |       Q     Has anybody, to your knowledge, ever advised the  
23 | board members of NMTV concerning the provisions of California  
24 | law on the points you've just testified about?

25 |       A     The board members of NMTV?

1 Q Yes.

2 A I don't know if they have.

3 Q What about board members of Trinity? Are they, are  
4 they -- have any board members of Trinity, Trinity been made  
5 privy to the testimony you've just given us on the -- about  
6 these matters of California law?

7 A I've talked to the board members about -- of Trinity  
8 of a provision of California law that provides that if the  
9 corporation investigates the possibility of liability insur-  
10 ance for directors, errors and admissions coverage, and deter-  
11 mines that it's too expensive, and makes that finding, find-  
12 ings in its minutes, that the directors are -- and it's a  
13 good-faith finding, that the directors are exempt from per-  
14 sonal liability. That came up when we were considering  
15 whether or not personal liability insurance should be put into  
16 effect, and we elected to put it into effect.

17 Q And, and there were minutes of TBN which reflect  
18 what you've just talked about, am I correct?

19 A I'm not -- I, I don't know if there are minutes to  
20 that. I just remember talking to the, to the board about  
21 that. We investigated and found out that we couldn't afford  
22 liability insurance and put it into effect.

23 Q Haven't you advised Jane Crouch -- excuse me,  
24 haven't you advised Jan Duff [sic] about the matters that  
25 you've testified to concerning California law?

1       A     I think that I advised Jane that it was important  
2     that the corporation have errors and admissions insurance. I  
3     would tell that to the, the member of any nonprofit corpora-  
4     tion.

5       Q     But you told it to her.

6       A     Yes.

7       Q     And an indemnity provision was introduced into the  
8     bylaws of NMTV reflecting this advice by you, am I correct?

9       A     That's a different provision altogether. The indem-  
10    nity is, is, is a completely different issue; it's a different  
11    code section; it's a different legislative enactment.

12      Q     Well, let me just ask you this question. Was an  
13    indemnity provision entered into the, the, into the minutes of  
14    NMTV?

15      A     Yes, I circulated that, that provision to probably  
16    50 nonprofit corporations when it became law with no charge.

17      Q     And one of those 50 was NMTV.

18      A     Exactly.

19      Q     Okay, and it was adopted by NMTV.

20      A     Yes.

21      Q     Okay, and, and explain for the record what, what  
22    that indemnity provision provides for.

23      A     It, it allows the corporation to pay for the  
24    expenses of a corporate director if he, if he is named in a  
25    lawsuit involving the, the corporation. If the corporation

1 makes a finding that, that he, he acted in good faith and  
2 acted, acted reasonably, it allows a corporation to use  
3 donated money, so to speak, to help pay for his defense. It's  
4 really moot if there's insurance, as there is in both these  
5 corporations.

6 Q And -- excuse me -- I want to ask you about Mass  
7 Media Bureau Exhibit 147.

8 MR. TOPEL: Volume 3.

9 (Pause.)

10 MR. COHEN: I think I have the wrong number. Can we  
11 go off the record for a second, Your Honor? I have the wrong  
12 number.

13 JUDGE CHACHKIN: We'll go off the record.

14 (Whereupon, a brief recess was taken.)

15 JUDGE CHACHKIN: All right.

16 MR. COHEN: Rather than take the time, I'll just go  
17 onto something else; 147 is not the right --

18 (Pause.)

19 BY MR. COHEN:

20 Q Now, NMTV has an insurance policy concerning the  
21 matters you've testified about, isn't that correct?

22 A That's correct.

23 Q And you advised Jane Duff that NMTV should obtain  
24 such a policy, am I correct?

25 A I recommended that they obtain errors and admissions

1 coverage.

2 Q And NMTV uses the same broker Trinity does, isn't  
3 that correct?

4 A Specialist in nonprofits, Jim Cochran.

5 Q Same person.

6 A Yes.

7 Q I, I now want to bring you back to the origin of, of  
8 what was then called TTI back to 1980? Who made the decision,  
9 as you recall, to organize TTI?

10 A The information came to me from Jane Duff.

11 Q And what did she tell you?

12 A She told me that there was a, a new concept in  
13 broadcast law that allowed corporations to be licensed to  
14 broadcast over translators, and some people refer to them as  
15 "satelliters" but these translators could pick up satellite  
16 feed and actually be licensed to local areas, and I had been  
17 aware of them before for leapfrogging signals, and she also  
18 indicated that it was possible to do local programming through  
19 these translators, and that, that she wanted me to form a  
20 nonprofit corporation that would be controlled by minority  
21 individuals to operate that particular corporation. And gave  
22 me the, the name of it that she wanted to use.

23 Q What did she tell you about the -- strike that. No,  
24 I want you to look at the bylaws of TTI, if you would, for a  
25 second, and the bylaws would be Mass Media Bureau Exhibit 9.

1 MR. TOPEL: That's going to be Volume 1 --

2 BY MR. COHEN:

3 Q And you've already testified that you, you prepared  
4 these bylaws, am I correct?

5 A Let me take a look at them. Yes, I did.

6 Q Now, you'll note that the bylaws provide for -- I'm  
7 looking for, I'm looking for the provision but I'm pretty sure  
8 I'm right that it provides that the -- what shall be a maximum  
9 of 10 directors and 3 -- and a minimum of 3.

10 A It's Section 2, second page.

11 Q Thank you for your help. Now, did you receive any  
12 instructions on that point --

13 A No, I didn't.

14 Q Okay, so was that, was that your decision to provide  
15 for a maximum of 10 and a minimum of 3?

16 A This was a form document that was recommended by the  
17 California Bar Association that I had adopted, and I had made  
18 it available to Translator TV personnel for their approval.

19 Q Now, do you know who made the decision to have three  
20 directors only?

21 A No, I don't.

22 Q You were just told -- strike that. Did there come a  
23 time that you were told as to who the directors would be?

24 A In, in her initial conversation with me, Jane Duff  
25 informed me that she would be a director, David Espinoza would

1 be a director, and Paul Crouch would be.

2 Q Do you know the -- did either Paul Crouch or  
3 Jane Duff discuss with you the, the basis for having three  
4 directors only and not having more minority directors?

5 A No.

6 Q Was that, was, was that matter, that is, the ques-  
7 tion of whether there should be more minority directors, ever  
8 mentioned to you or discussed with you by Jane Duff or  
9 Paul Crouch as of this minute?

10 A You mean from the inception up to the present?

11 Q Correct.

12 A As I sit here, I can't recall a specific instance.  
13 They're -- I can recall Mr. Crouch mentioning to me the possi-  
14 bility of E.V. Hill coming on the board, and I wholeheartedly  
15 endorsed that proposal but I don't remember him specifically  
16 saying, "We need to add more minority people to the board."  
17 He talked to me about personalities such as Mr., Mr. Hill.

18 Q But you have no recollection of Paul Crouch ever  
19 talking with you about adding a number of, of blacks or  
20 Hispanics to NMTV's board or TTI's board, is that your testi-  
21 mony?

22 A No, I, no, I can't recall that.

23 Q Now, in 1980 when TTI was organized, who were the  
24 directors at TBN? Or, or Trinity Christian Center.

25 A The directors would have been myself, Paul Crouch,

1 and Jane Duff.

2 Q And so you were obviously aware that the same per-  
3 sons controlled the Trinity board that controlled the TTI  
4 board. You knew that.

5 A I knew the same persons were board members, yes.

6 Q Didn't Mrs. Duff tell you back in 1980 that TTI was  
7 going to be a corporation that would have a majority of mem-  
8 bers who were not on the board of Trinity Christian Center?

9 A As I -- she told me who the board members were going  
10 to be. They were going to be the three that I just mentioned  
11 to you.

12 Q But didn't she tell you that TTI was going to have a  
13 majority of members who were not on the board of Trinity  
14 Christian Center?

15 A She didn't tell -- no, she didn't tell me that.  
16 You're referring to my deposition testimony where I assumed  
17 that Jane Duff was not on the board of Trinity Christian  
18 Center.

19 Q Well, I want to read your deposition answer and, and  
20 question into the record, and we'll start on page 57 of your  
21 deposition conducted on September 23, and the question begins  
22 on line 15: "When is the first time that anybody in the world  
23 made you aware that there may be an entity named Translator  
24 Television/NMTV, that it might be formed?" And you answered,  
25 "It was sometime in 1980." And the question was, "Tell me



1 about it," and the answer was, "Jane Duff contacted me and  
2 told me that she had been empowered. I don't know who by, but  
3 had been authorized to ask me to form a nonprofit California  
4 corporation named Translator TV, and then she gave me the  
5 specifics as she understood them in terms of what the corpora-  
6 tion would be doing and just how it would operate," and the  
7 question was, "What did she tell you?" and the answer was, "To  
8 the best of my recollection, and my knowledge here may include  
9 some information that was subsequently given to me by FCC  
10 counsel --" and the question was, "Just give me your best  
11 recollection," and your answer was, "Just that it was known  
12 that it was possible to obtain permission from the Federal  
13 Communications Commission to operate what we had normally  
14 called translator systems, and I was familiar with them for  
15 not only conveying signals to distances but to use them to  
16 broadcast to a local area, and that it was possible to do that  
17 through a satellite feed. She also indicated that it was  
18 possible to utilize these translators to have some local  
19 programming, and that this corporation was going to be one  
20 that would have a majority of members who were not on the  
21 board of Trinity Christian Center, and she mentioned  
22 David Espinoza, herself, and Paul Crouch would be on the  
23 board." Now I wanted to ask you another question. At the  
24 very early stages of NMTV, did Jane Duff ever talk to you  
25 about a minority focus for TTI or NMTV?

1       A     I don't remember Jane using that, that type of a  
2 wording.

3       Q     In point of fact, it wasn't until 19 -- it wasn't at  
4 least until 1987 that Jane Duff talked to you about a minority  
5 focus for TTI or NMTV, am I correct?

6       A     I can't say that that's true. I was well aware of  
7 it through Paul Crouch, though, in 1980.

8       Q     Well, let me refer you to your deposition,  
9 September 23, page 59, line 1. Question: "Did she --" mean-  
10 ing Jane Duff -- "ever talk with you about a minority focus  
11 for NMTV? By minority I'm talking about blacks or Hispanics."  
12 Answer: "I don't recall in the early stages Jane mentioning a  
13 minority focus per se. It was a matter of discussion among  
14 those at Trinity Christian Center, so there was probably some  
15 overlap to National Minority." Question: "Did there ever  
16 come a time that you became aware that NMTV was to be a  
17 minority-focused -- and I'm using the word "focused" in a lay  
18 sense, I guess, operation." And your answer: "Well, it was  
19 apparent to me that it was minority-focused when I saw that  
20 the directors were going to be Jane and David Espinoza."  
21 Question: "Did you ever talk with Jane about that point?"  
22 Answer: "Well, yes, there were specific conversations with  
23 Jane in 1987." Question: "I'm talking about at the very  
24 beginning." Answer: "At the very beginning, not that I can  
25 recall." I know would like to turn the subject to another

1 matter. If we could -- the, the exemption application that  
2 you prepared, which is -- should be -- I, I think it would be  
3 Mass Media Bureau Exhibit 13 -- and first, if you would -- I'm  
4 going to be asking you some questions about the, the substance  
5 of this document, so why don't you first just leaf through it  
6 and just generally familiarize yourself with it, and then I'm  
7 going to ask you about a specific provision, but first I want  
8 to be fair to you. You're going to want to have a chance to  
9 peruse it.

10 A Go ahead.

11 Q Now, you prepared this exemption application, am I  
12 correct?

13 A Yes.

14 Q Okay, and --

15 A With assistance from Gammon and Grange.

16 Q Well, that's -- tell me what assistance Gammon and  
17 Grange gave you in connection with the preparation of this  
18 document, sir.

19 A Before, before I drafted it, I wrote a letter to  
20 Gammon and Grange and told them that we intended to form this  
21 new corporation that would be involved in translators, and I  
22 asked them to give their advice as to how this corporation  
23 should relate to Trinity Broadcasting Network, and to look  
24 over all of the documents that I would be submitting to the  
25 IRS to make sure that we were in compliance with FCC rules and

1 regulations, and I continued to do that through the exemption  
2 process.

3 Q Did, did you receive any information or advice from  
4 Gammon and Grange which is contained in the exemption applica-  
5 tion?

6 A The exhibits you're looking at, that, that we have  
7 in, in front of us, is not the entire exemption application.  
8 There were attachments to it that were drafted subsequently.  
9 The IRS, as they always do, came back and asked follow-up  
10 questions, and those documents included quite a bit of input  
11 from Gammon and Grange.

12 Q I see, okay. Let me ask you this question, sir.  
13 Please turn to, to paragraph 5 of the document, which is page,  
14 page 3, on the bottom of the page. Okay, the document is  
15 numbered as an exhibit. It would be the third page of the  
16 exhibit.

17 A Yes.

18 Q Paragraph 5, okay, and read paragraph 5 to yourself,  
19 and then tell me when you've read it. It's not necessary --  
20 it is not necessary to read it into the record.

21 A Okay. Yes, I'm familiar with that paragraph.

22 Q Now, am, am I, am I correct -- first of all, the  
23 question is "Does the organization control or is it controlled  
24 by any other organization?" and the answer is, "No," is that  
25 correct?

1           A     That's correct.

2           Q     Now, am I right that the reason that you answered  
3 that question "no" was that there was no formal or legal  
4 obligation on Paul Crouch or Jane Duff's part to, in any  
5 manner, be subservient to TBN?

6           A     There was no enforceable way that they could control  
7 any unjust or unreasonable acts on Translator TV, and that's  
8 based on the corporation's code.

9           Q     Let me read you your deposition, page 66, same day,  
10 line 10. I asked you, "Walk me through your rationale again  
11 as to why you answered the question 'no.' I interrupted you  
12 and I apologize." And the answer was, "Let me go on and state  
13 that the question on that IRS form generally relates to a  
14 formal agreement that a corporation will be subject to another  
15 corporation. That didn't happen with respect to Translator TV  
16 or National Minority, never did, and so there was really no  
17 control. The assumption has to be that Paul Crouch and  
18 Jane Duff are going to exercise their own independent will in  
19 making decisions. There was no formal or legal obligation on  
20 their part to in any manner be subservient to Trinity  
21 Christian Center, so the answer was 'no.'" Now, I want to ask  
22 you, as a lawyer who's practiced law in the field of  
23 not-for-profit law in more -- since -- how many years have  
24 you, have you been in such a practice, sir?

25          A     Since 1967.

1 Q Even -- I'm a bad adder but even I can add that.  
2 Several years.

3 A Several years.

4 Q Okay. Would it not have been illegal under  
5 California law for there to have been an obligation on NMTV's  
6 part to be subservient to, to Trinity Christian Center?

7 A It would have been illegal for the board of direc-  
8 tors of NMTV to be legally obligated to adhere to the dictates  
9 of Trinity Christian Center.

10 Q And that's a cornerstone of California law, am I  
11 correct?

12 A Yes, Section 9244 of the Corporations Code.

13 Q And wouldn't it have been --

14 A Pardon me, that was 9130.

15 Q Would it not have been illegal under California law  
16 if Paul Crouch or Jane Duff had agreed in advance in carrying  
17 out their responsibilities as NMTV directors to have been, to  
18 have been subservient to Trinity Christian Center?

19 A It would only be illegal if, if they attempted to  
20 foist upon Translator TV a transaction that would be unreason-  
21 able or unfair to Translator TV. The code on conflicts for  
22 directors has two provisions, that transactions are valid  
23 (one) if the directors of both corporations are aware of the  
24 joint representation on the two boards and go ahead and pass  
25 a, a resolution with full knowledge of that or, secondly, even

1 | if they don't approve a, a -- the, the joint representation,  
2 | if the contract is fair and reasonable as to the corporation,  
3 | it's still enforceable. If it's not, the single remaining  
4 | board member would have a right to bring a lawsuit if they  
5 | attempted to foist something unfair and unjust on a corpora-  
6 | tion, as would the attorney general.

7 | JUDGE CHACHKIN: Would it have been illegal under  
8 | California law to have identical board members in both corpo-  
9 | rations?

10 | MR. JUGGERT: No. There's no provision for that.  
11 | It's a common occurrence.

12 | JUDGE CHACHKIN: Does California law recognize de  
13 | facto control?

14 | MR. JUGGERT: They're -- not that I'm aware of.

15 | BY MR. COHEN:

16 | Q Now, your testimony states at paragraph 3, "Under  
17 | California law, as I knew, it is illegal for one nonprofit  
18 | corporation to control another, or even for one board of  
19 | directors to enter into an agreement to control another  
20 | board," is that --

21 | A Yes.

22 | Q That's correct.

23 | A That's right, it has to be enforceable.

24 | Q And that's the reason why it would have been illegal  
25 | under California law if Paul Crouch or Jane Duff had agreed in

1 advance that in carrying out their responsibilities as NMTV  
2 directors that they could not agree they would be subservient  
3 to Christian Trinity [sic], right?

4 A No, for, for, for the arrangement to be illegal on  
5 its face, there would have had to have been a mutual agreement  
6 between the board -- between the boards of the, the two corpo-  
7 rations that Translator TV would be subservient to Trinity  
8 Christian Center.

9 Q Isn't the crucial factor in determining control  
10 under California law, whether there is a legal obligation,  
11 informal or formal, to be subservient? Isn't that the essence  
12 of it?

13 A A, a -- informal or -- well, an informal agreement  
14 that was agreed to by both boards would be as illegal as a  
15 written one.

16 Q Isn't the, the critical factor, though, under  
17 California law, whether there's a legal obligation? Isn't  
18 that what, isn't that what determines -- and that legal obli-  
19 gation could be either formal or informal to be, to be subser-  
20 vient. Isn't that what -- isn't that the crucial factor in  
21 determining control?

22 A If it was actually put into play that Trinity  
23 Broadcasting was dictating policy to Translator TV, if that  
24 was a matter of agreement between the board members, whether  
25 it's written or oral, that would be illegal. But it would



1 have to be a matter of agreement between the two boards.

2 JUDGE CHACHKIN: It would have to be a written  
3 agreement?

4 MR. JUGGERT: If, if it was oral -- if there was an  
5 oral, fair oral understanding contract, that would be -- that  
6 one board would be subservient to the other, that would be  
7 illegal. To the extent that there were -- the only time that  
8 would come would be is if there were policies that were  
9 adopted that were unfair and unreasonable as to the subservi-  
10 ent corporation.

11 BY MR. COHEN:

12 Q Now you, you answered the judge's question a moment  
13 ago and I want to, I want to go back to that. The judge asked  
14 you whether under California law --

15 MR. COHEN: -- as I understood your question --

16 BY MR. COHEN:

17 Q -- there was such a thing as de facto control, and I  
18 believe you said, "No." Am I correct?

19 A I'm not aware --

20 Q Or did I, did I misunderstand the -- I thought  
21 that's what the judge asked you.

22 A Yes.

23 JUDGE CHACHKIN: That was the question and that was  
24 the answer.

25 MR. JUGGERT: And, and I'm aware of no California